

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEREMIE DAVID STITES,

Plaintiff,

v.

CHERYL STRANGE, et al.,

Defendant.

CASE NO. 3:24-cv-05027-MJP-BAT

**ORDER DIRECTING SERVICE BY
E-MAIL AND FIRST-CLASS MAIL
AND PROCEDURES**

Plaintiff is proceeding *pro se* and *in forma pauperis* in this federal civil rights action.

The Court **ORDERS** as follows:

(1) Service by Clerk

The Clerk is directed to send the following to defendants **Cheryl Strange, Secretary of Washington State Department of Corrections, 7345 Linderson Way SW, Tumwater, WA 98501, and Joyce Lingle, Corrections Specialist, Opioid Response Unit of Washington State Department of Corrections 7345 Linderson Way SW, Tumwater, WA 98501** by first class mail: a copy of plaintiff's complaint and of this Order, two copies of the Notice of Lawsuit and Request for Waiver of Service of Summons, a Waiver of Service of Summons, and a return envelope, postage prepaid, addressed to the Clerk's office.

1 The Clerk shall also send **via email** a courtesy copy of the complaint and of this Order to
 2 **Washington Attorney General.**

3 (2) Response Required

4 Defendants shall have **30 days** within which to return the enclosed waiver of service of
 5 summons. Any defendant who timely returns the signed waiver shall have **60 days** after the date
 6 designated on the notice of lawsuit to file and serve an answer to the complaint or a motion
 7 permitted under Rule 12 of the Federal Rules of Civil Procedure.

8 Any defendant who fails to timely return the signed waiver will be personally served with
 9 a summons and complaint and may be required to pay the full costs of such service, pursuant to
 10 Rule 4(d)(2). A defendant who has been personally served shall file an answer or motion
 11 permitted under Rule 12 within **21 days** after service.

12 **Defendants MUST serve a *Rand* notice concurrently with motions to dismiss based**
 13 **on a failure to exhaust and motions for summary judgment so that *pro se* prisoner plaintiffs**
 14 **will have fair, timely and adequate notice of what is required of them in order to oppose**
 15 **those motions. *Woods v. Carey*, 684 F.3d 934 (9th Cir. 2012).** The Ninth Circuit set forth
 16 model language for such notices:

17 A motion for summary judgment under Rule 56 of the Federal
 18 Rules of Civil Procedure will, if granted, end your case.

19 Rule 56 tells you what you must do in order to oppose a motion for
 20 summary judgment. Generally, summary judgment must be
 21 granted when there is no genuine issue of material fact – that is, if
 22 there is no real dispute about any fact that would affect the result
 23 of your case, the party who asked for summary judgment is entitled
 to judgment as a matter of law, which will end your case. When a
 party you are suing makes a motion for summary judgment that is
 properly supported by declarations (or other sworn testimony), you
 cannot simply rely on what your complaint says. Instead, **you**
must set out specific facts in declarations, depositions, answers
to interrogatories, or authenticated documents, as provided in

1 **Rule 56(e), that contradict the facts shown in the defendant's**
 2 **declarations and documents and show that there is a genuine**
 3 **issue of material fact for trial. If you do not submit your own**
 4 **evidence in opposition, summary judgment, if appropriate,**
 5 **may be entered against you. If summary judgment is granted,**
 6 **your case will be dismissed and there will be no trial.**

7 *Rand v. Rowland*, 154 F.3d 952, 962-63 (9th Cir. 1998) (emphasis added).

8 **Defendants who do not file and serve, in a separate document, the required *Rand***
 9 **notice will face (a) immediate denial of their motions with leave to refile and (b) possible**
 10 **monetary sanctions.**

11 (3) Filing and Service by Parties Generally

12 All attorneys admitted to practice before this Court must file documents electronically via
 13 the Court's CM/ECF system. **Plaintiff must utilize the Court's E-Filing Initiative. Any filing**
 14 **that Plaintiff files that fails to conform with the E-Filing Initiative shall be stricken.** All
 15 filings must indicate in the upper right-hand corner the name of the Magistrate Judge to whom
 16 the document is directed.

17 Additionally, any document filed with the Court must be accompanied by proof that it
 18 has been served upon all parties that have entered a notice of appearance in this case.

19 (4) Motions

20 Regarding the filing of motions before the Court, the parties are directed to review Local
 21 Rule CR 7 in its entirety. A few important points are highlighted below:

22 Any request for court action shall be set forth in a motion, properly filed and served.
 23 Pursuant to Local Rule CR 7(b), any argument being offered in support of a motion shall be
 submitted as a part of the motion itself and not in a separate document. **The motion shall**
include in its caption (immediately below the title of the motion) a designation of the date
the motion is to be noted for consideration upon the court's motion calendar.

(5) Direct Communications with District Judge or Magistrate Judge

(6) The Clerk is directed to send a copy of this Order to plaintiff and a copy of this Order to the Hon. Marsha J. Pechman.

DATED this 22nd day of January, 2024.


BRIAN A. TSUCHIDA
United States Magistrate Judge